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09/845,852	04/30/2001	Robert G. Gann	10012822-1	3197

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EXAMINER

SOHN, SEUNG C

ART UNIT PAPER NUMBER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/845,852
Filing Date: April 30, 2001
Appellant(s): GANN, ROBERT G.

MAILED

JUL 26 2005

GROUP 2800

Augustus W. Winfield
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 19, 2005

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is partially correct.

Claims 1-18 are pending in the application.

This appeal involves claims 1, 3 and 10.

Claims 2 and 11-14 are allowed.

Claims 4-5 are objected.

Claims 6-9 and 15-18 are withdrawn from consideration as not directed to the elected Invention.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection is substantially correct. The changes are as follows: the rejection of claims 2-3 and 11-12 under 35 USC 112, second paragraph is now withdrawn.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

Palcic et al. (Patent No. US 6,026,174).

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. ***Claims 1 and 10 are rejected under 35 U.S.C. 112, second paragraph***, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. On claims 1 and 10, "a calibration gain for a photosensor corresponding to the line is normal" is vague. What does the *normal* calibration gain mean? Clarification is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. ***Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by Palcic et al. (Patent No. US 6,026,174).***

Referring to claim 3, Palcic et al. shows in Fig. 2B the following steps of Applicant's claim:

a) determining (72) that intensity data, from a particular photosensor, in a particular line-array of photosensors, in a photosensor assembly, is less than a predetermined intensity threshold (Col. 6, lines 3-12); and

b) determining (72) that intensity data, for each photosensor, physically corresponding to the particular photosensor, in all line-arrays in the photosensor assembly other than the particular line-array of photosensors, is not less than the predetermined intensity threshold (Col. 6, lines 3-12).

(10) Response to Argument

ISSUE I (Claims 1 and 10)

In response to the Applicant's argument that, given any set of numbers, one of ordinary skill in the art with a basic knowledge of statistics could employ a vast number of techniques to classify some of the numbers as normal, and some of the numbers as not normal, the examiner recognizes that one person in the art could classify one range of numbers as normal using one technique while another person in the art may classify another range of numbers as normal using another technique. It is hard to conclude that everyone in the art could always have the same range of numbers as normal since the word 'normal' is an indefinite and subjective term.

ISSUE II (Claims 2-3 and 11-12)

The rejection of claims 2-3 and 11-12 under 35 USC 112, second paragraph is now withdrawn.

ISSUE III (Claims 3)

In response to the Applicant's argument that Palcic et al. does not disclose anything about associating image pixels with photosensors, the examiner notes that image pixels are actually photosensors.

In response to the Applicant's argument that Palcic et al. does not disclose specifying other photosensors that correspond to the particular photosensor, and that

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the image data for those specific other photosensors are not less than the threshold, the examiner notes that if one of ordinary skill in the art picks any pixel of Palcic et al. as a particular photosensor, then Palcic et al. discloses specifying the rest of pixels as other photosensors that correspond to the particular photosensor, and that the image data for those specific other photosensors are not less than the threshold since Palcic et al. discloses that all pixels (including the particular pixel) are determined and identified whether the intensity values of pixels are less than (or not less than) the threshold value.


For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Seung C. Sohn

Patent Examiner

July 11, 2005


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